

CHAPTER 12 BASICS

History

The 1980s were difficult times for family farmers. The American farm economy was in its worst financial condition in almost 50 years. Crop prices were decreasing, farm income was down and land prices were declining. Farm debt was increasing and agricultural credit markets were tightening. Farmers across the country were caught between the falling land values and the inability to borrow money to finance their farming operations. As land values fell, lenders refused to extend credit to farmers whose land values had fallen to the point where there was insufficient equity to secure existing loans.

Some farmers tried to reorganize under chapter 11 or chapter 13, but found both unworkable and did not help them save their farms. Chapter 11 was designed for large, corporate reorganizations. It was cumbersome, complex, expensive and almost impossible to confirm. Chapter 13 was simpler and less costly, but did not have sufficient debt limits to cover most farming operations.

An Interim Solution

Chapter 12 bankruptcy was created in 1986. It was enacted by Congress as a part of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 passed in October of 1986. It went into effect on November 26, 1986.

Chapter 12 was originally scheduled to sunset on October 1, 1993. The sunset provision was extended to October 1, 1998, then extended an additional 11 times until it was made a permanent part of the Bankruptcy Code in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

How Does Chapter 12 Work?

A case under Chapter 12 begins as cases under all other chapters. The debtor files a petition, schedules and a statement of financial affairs. Upon case filing the automatic stay commences. A trustee is appointed to oversee the case, either a standing trustee or a case-by-case trustee. The debtor must file a plan within 90 days of filing the bankruptcy petition (unless the court extends the deadline). The plan payment period must be at least 36 months but may be as long as 60 months.

In addition to providing for payment of secured and priority unsecured claims, a chapter 12 plan must provide that net disposable income be paid for distribution to unsecured creditors until discharge. 11 U.S.C. § 1222(a)(1). The Plan must propose to pay general unsecured creditors as much as they would receive under a liquidation under chapter 7. 11 U.S.C. § 1225(a)(4). The plan must provide for full payment, in deferred cash payments, of all priority claims under 11 U.S.C. § 507, unless the holder of the claim agrees to accept less favorable treatment, 11 U.S.C. § 1222(a)(2). The plan must also provide the same treatment for each class of claim or interest within a particular class unless the holder of claim or class agrees to less favorable treatment, 11 U.S.C. § 1222(a)(3).

Who can file a chapter 12?

The Bankruptcy code provides that “Only a family farmer or family fisherman with regular annual income may be a debtor under chapter 12 of this title”. 11 U.S.C. § 109(f). The debtor or debtors must also be engaged in a farming operation at the time of filing. 11 U.S.C. § 101(18)(1). Determination of whether a debtor is eligible to file Chapter 12 requires a careful look at each of the statutory definitions. Requirements to be considered a family farmer are found in 11 U.S.C 101(18):

1. An individual or individual and spouse;

2. With aggregate debts not to exceed \$12,562,350 (4/1/25);
3. Not less than 50% of debts (excluding residence) arise out of a farming operation.
4. More than 50% of gross income arises from farming operation in the taxable year before filing, or more than 50% of the gross income arises from farming operation in each of the 2d and 3d taxable years preceding filing.

If a corporation or partnership:

1. More than 50% of outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family and such family or such relatives conduct the farming operation;
2. More than 80% of the value of the assets consists of assets related to the farming operation;
3. Aggregate debts are less than \$12,562,350 (4/1/25);
4. If a corporation issues stock, the stock is not publicly traded.

There are no income requirements.

The requirements for a family fisherman are found in U.S.C. §101(19)A and are similar:

1. An individual or individual and spouse engaged in a commercial fishing operation;
2. With aggregate debts not to exceed \$2,568,000 (4/1/25);
3. Not less than 80% of debts (excluding principal residence) arise out of commercial fishing operation owned or operated by debtor;
4. More than 50% of gross income for the taxable year preceding filing arise from the commercial fishing operation;

A corporate or partnership fisherman is eligible if:

1. 50% or more of the outstanding stock is held by one family that conducts the fishing operation, or one family and the relatives of the members of such family, and such family or relatives conduct the fishing operation;
2. More than 80% of the value of its assets consists of assets related to the commercial fishing operation;
3. Aggregate debts do not exceed \$2,568,000 (4/1/25);
4. Not less than 80% of debts are related to the commercial fishing operation;
5. If a corporation, none of the stock is publicly traded.

Definitions of “farmer” and “farming operation,” when determining Chapter 12 eligibility are to be liberally construed after review of a totality of the circumstances. In evaluating the totality of the circumstances, courts have considered:

1. Whether the location of the operation would be considered a traditional farm;
2. The nature of the enterprise at the location;
3. The type of product and its eventual market;
4. The physical presence or absence of family members on the farm;
5. Ownership of traditional farm assets;
6. Whether the debtor is involved in the process of growing or developing crops or livestock; and

7. Whether or not the practice or operation is subject to the inherent risks of farming.

Judge Thomas Cornish, Eastern District of Oklahoma, in applying these factors, held that where the debtors had a cow and calf operation and sold their own timber and brokered the timber of neighbors to Weyerhaeuser qualified as farming because the operation was subject to the inherent risks of farming, as a fire could potentially destroy all of the Debtors' timber for more than one year. *In Re Glenn*, 181 B.R 105, 1995.

Chapter 12 eligibility is generally determined as of the date of filing, without consideration of post-petition events. *In re Dawes*, 2008 WL 718304. Eligibility requirements have been determined not jurisdictional. See *In re Perkins*, 581 B.R. 822 (2018) citing *In re Glance*, 487 F.3d 317(6th Cir. 2007).

The elements that must be established before a Chapter 12 plan can be confirmed are set out at 11 U.S.C. § 1225(a). As the plan proponent the burden rests with the debtor to establish all of the elements essential to plan confirmation. *Matter of Burnett*, 2024 WL 4965087.

Benefits of Chapter 12 over other chapters

1. Plan is not due until 90 days after filing;
2. Simpler plans than Chapter 11 and no disclosure statement required;
3. Debtor may retain an asset and may reduce the balance of secured claims to the value of the collateral, including the claim against the debtor's residence (which is prohibited in a chapter 13);
4. A plan may be confirmed even though unsecured creditors may not receive full payment for their claims, as long as all disposable income is paid out during the plan. There is

no absolute priority rule;

5. The automatic stay applies to co-debtors on consumer debts as well;

6. Payment terms on secured debts can be stretched out, re-amortized, and the interest rate adjusted. Plans may also propose the payment of secured creditors be extended over a period longer than the life of the chapter 12 plan even if that exceeds the term of the original debt without the need for cure of default.

7. Only the farmer/debtor may propose a plan, not the creditors or the trustee

8. Chapter 12 has a high debt limit - debt limit of \$11,097,350.00, much greater than that of Chapter 13

9. Chapter 12 Plans provide a great amount of flexibility in addressing secured farm debts such as equipment loans and mortgages. Plans do not necessarily require monthly payments (as chapter 13 does). The plan may provide for payments on a monthly, seasonally, annually or variable schedule, depending on the type of farming operation. Farms with regular monthly income such as dairy farms typically provide for monthly payments. Poultry operations typically provide plans that call for 4 or 5 payments per year. Farms with annual crops, such as row crops and sometimes cattle operations typically propose annual payments corresponding to the timing of the sale of the crop.

10. Deprioritization of tax claims.

Special Chapter 12 Tax Rule

A key change to the tax treatment of certain farm debts was implemented in October, 2017 with the addition of 11 U.S.C. § 1232:

§1232. Claim by a governmental unit based on the disposition of property used in a farming operation

(a) Any unsecured claim of a governmental unit against the debtor or the estate that arises before the filing of the petition, or that arises after the filing of the petition and before the debtor's discharge under section 1228, as a result of the sale, transfer, exchange, or other disposition of any property used in the debtor's farming operation-

(1) shall be treated as an unsecured claim arising before the date on which the petition is filed;

(2) shall not be entitled to priority under section 507;

(3) shall be provided for under a plan; and

(4) shall be discharged in accordance with section 1228.

(b) For purposes of applying sections 1225(a)(4), 1228(b)(2), and 1229(b)(1) to a claim described in subsection (a) of this section, the amount that would be paid on such claim if the estate of the debtor were liquidated in a case under [chapter 7](#) of this title shall be the amount that would be paid by the estate in a [chapter 7](#) case if the claim were an unsecured claim arising before the date on which the petition was filed and were not entitled to priority under section 507.

(c) For purposes of applying sections 523(a), 1228(a)(2), and 1228(c)(2) to a claim described in subsection (a) of this section, the claim shall not be treated as a claim of a kind specified in subparagraph (A) or (B) of section 523(a)(1).

(d)(1) A governmental unit may file a proof of claim for a claim described in subsection (a) that arises after the date on which the petition is filed.

(2) If a debtor files a tax return after the filing of the petition for a period in which a claim described in subsection (a) arises, and the claim relates to the tax return, the debtor shall serve notice of the claim on the governmental unit charged with the responsibility for the collection of the tax at the address and in the manner designated in section 505(b)(1). Notice under this paragraph shall state that the debtor has filed a petition under this chapter, state the name and location of the court in which the case under this chapter is pending, state the amount of the claim, and include a copy of the filed tax return and documentation supporting the calculation of the claim.

(3) If notice of a claim has been served on the governmental unit in accordance with paragraph (2), the governmental unit may file a proof of claim not later than 180 days after the date on which such notice was served. If the governmental unit has not filed a timely proof of the claim, the debtor or trustee may file proof of the claim that is consistent with the notice served under paragraph (2). If a proof of claim is filed by the debtor or trustee under this paragraph, the governmental unit may not amend the proof of claim.

(4) A claim filed under this subsection shall be determined and shall be allowed under subsection (a), (b), or (c) of section 502, or disallowed under subsection (d) or (e) of section 502, in the same manner as if the claim had arisen immediately before the date of the filing of the petition.

Chapter 12 Eligibility Test

Updated on April 1, 2025

Bankruptcy Case No.: _____

Debtor(s) Name: _____

Select the Checklist Group that applies for this case:

Eligibility Checklist for Individual Farmers

REQUIREMENTS	YES	NO
1. Individual or individual and spouse Family Farmer - 11 U.S.C. 101(19)		
2. Engaged in a farming operation on date of filing - 11 U.S.C. 101(21)		
3. Aggregate debts are less than \$12,562,350 (4/1/25) 11 U.S.C 101(18)		
4. Not less than 50% of debts (excluding residence) arise out of a farming operation		
5. More than 50% of gross income arises from farming operation in the taxable year before filing, OR...		
- More than 50% of the gross income arises from farming operation in each of the 2d and 3d taxable years preceding filing		

Eligibility Checklist for Corporate or Partnership Farmers

(Note: Not based on income at all)

REQUIREMENTS	YES	NO
1. More than 50% of o/s stock or equity is held by one family, or by one family and the relatives of the members of such family		
2. Such family or such relatives conduct the farming operation		
3. More than 80% of the value of the assets consists of assets related to the farming operation		
4. Aggregate debts are less than \$12,562,250 (4/1/25) 11 U.S.C. 101(18)		
5. Not less than 50% of aggregate noncontingent, liquidated debts (excluding dwelling used by shareholder or partner as principal residence) arise out of a farming operation		
6. If a corporation issues stock, the stock is not publicly traded		

Eligibility Checklist for Individual Family Fisherman

REQUIREMENTS	YES	NO
1. Individual or individual and spouse engaged in a commercial fishing operation [11 U.S.C. 101 (7A)]		
2. Aggregate debts do not exceed \$2,568,000 (4/1/25) 11 U.S.C. 101(19)(A)		
3. Not less than 80% of debts (excluding principal residence) arise out of commercial fishing operation owned or operated by debtor		
4. More than 50% of gross income for the taxable year preceding filing arise from the commercial fishing operation		

Eligibility Checklist for Corporate or Partnership Fishermen
(Note: Not based on income at all)

REQUIREMENTS	YES	NO
1. 50% or more of the o/s stock is held by 1 family that conducts the fishing operation, OR...		
2. One family and the relatives of the members of such family, and such family or relatives conduct the fishing operation, AND...		
3. More than 80% of the value of its assets consists of assets related to the commercial fishing operation, AND...		
4. Aggregate debts do not exceed \$2,568,000 (4/1/25) 11 U.S.C. 101(19)(A)		
5. Not less than 80% of debts are related to the commercial fishing operation.		
6. If a corporation, none of the stock is publicly traded		

Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy



- I. Why Are We Talking About This?
 - a. Multiple sources report a substantial increase (55% or more) in Chapter 12 filings in 2024 compared to 2023. This marks an end to a four-year downward trend in ag bankruptcies.
 - b. Data from early 2025 suggests this upward trend is continuing – some reports indicate that YTD filings in 2025 are nearly double.
 - c. Farm bankruptcies are often a “lagging indicator” of financial distress.
- II. What are necessary Pre-Petition Considerations?
 - a. Assessment!
 - i. What is the current financial status?
 - ii. What has been the historical financial performance?
 - iii. Is Chapter 12 necessary – are there other options?
 - b. Determine current financial status.
 - i. Balance Sheet (See Addendum 1).
 - ii. Debts and terms.
 - iii. Assets – a complete, accurate listing.
 1. Matched with liens / mortgages.
 - c. Determine historical financial performance.
 - i. Income statements (See Addendum 2).
 - d. Determine historical production performance.
 - i. Crop.

- ii. Livestock / livestock products.
 - iii. Other revenue streams.
 - III. Constructing / Developing the Chapter 12 Plan.
 - a. Begin with a “Typical Year” (a long-range projection).
 - i. Based upon reasonable, objective expectations.
 - b. Construct / develop a “bridge projection” to get “from here to there”
 - IV. Navigating the Plan
 - a. Monitoring and reporting during the plan.
 - i. Periodic reports to the Trustee
 - ii. Internal reporting and monitoring
 - b. Modifying the Plan
 - V. Post-Discharge Financial Management
 - a. Continued engagement with a farm management advisor / consultant
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Addendum 1: Example Balance Sheet.



Broke-S Farms
1/1/2005 Balance Sheet

Current Assets			Value	Current Liabilities						Balance	
Cash and checking			3,624	Accrued interest						3,068	
Prepaid exp. & suppl. (Schd B)			7,647	Payables & accr exp (Schd T)						11,550	
Growing crops			-								
Accounts receivable (Schd D)			14,242								
Hedging accounts			-								
Other current assets			-								
Crops (Schd G)				Int		P & I		Principal			
Corn	Quantity	Value/Unit		Rate	Balance	Due	Due	Balance			
16,400	1.78 /bu.	29,260		7.25	-	-	-	55,560			
Alfalfa Hay	90	85.00 /ton	7,650					22,650			
Corn Silage	220	18.00 /ton	3,960					14,560			
Oats	300	1.45 /bu.	435								
Mkt lvst (Schd H)				Principal due within 12 months on term liabilities						23,127	
Raised Hogs	No.	Value/Unit									
175	57.00 /cwt.	11,970									
Fin Yearling	41	98.00 /cwt.	30,135								
Total Current Assets			108,923	Total Current Liabilities						130,515	
Intermediate Assets				Intermediate Liabilities (Schd V)							
Brdg lvst (Schd I)			Market Value	Int		Principal		P & I		Principal	Intermed
Dairy cows	No.	Value		Rate	Balance	Due	Due	Balance			
52		62,400		7.25	63,910	13,512	8,915	54,995			
Heifers	47	23,500		7.75	37,593	9,353	7,064	30,529			
Sows	30	4,500		7.25	16,030	4,813	3,295	12,735			
Gilts	10	1,250									
Boars	2	500									
Machinery (Schd J)			105,109								
Titled vehicles (Schd K)			10,000								
Other intermediate assets			-								
Total Intermediate Assets			207,259	Total Intermediate Liabilities						98,259	
Long Term Assets				Long Term Liabilities (Schd W)							
Land (Schd M)			Market Value	Int		Principal		P & I		Principal	Lg Term
Home farm	Acres	Value		Rate	Balance	Due	Due	Balance			
160		1,360,000		7.00	70,621	8,596	3,853	66,768			
Buildings and improvements			124,260								
Other long term (Schd O)			30,356								
Total Long Term Assets			1,514,616	Total Long Term Liabilities						66,768	
Total Farm Assets			1,830,797	Total Farm Liabilities						295,542	
Personal Assets (Schd P)			17,634	Personal Liabilities						-	
Total Assets			1,848,431	Total Liabilities						295,542	
				Net Worth						1,552,889	

Addendum 2: Example Income Statement - Financial Trend



Broke-S Farms Farm Income Statement Summary

Source	2000 FINAN	2001 FINAN	2002 Accr Sch F	2003 Accr Sch F	2004 FINAN	Average
Farm Income Statement						
Gross farm income	161,554	175,624	187,785	233,240	272,271	206,095
Total cash expense	123,325	128,506	165,139	177,121	196,068	158,032
Net cash farm income	38,229	47,118	22,646	56,119	76,204	48,063
Inventory Changes						
Crop and feed	-5,065	4,900	7,090	5,924	-13,674	-165
Market livestock	7,750	471	4,507	-6,852	10,132	3,202
Prepays expenses and supplies	-780	452	183	280	4,812	989
Accounts receivable	-687	339	6,702	-2,012	4,050	1,678
Breeding livestock	-542	-602	2,216	1,449	15,725	3,649
Other assets	1,784	1,350	2,070	1,796	-	1,400
Accounts payable	3,815	-	-396	-1,368	2,570	924
Accrued interest	-1,098	545	139	193	241	4
Total inventory change	5,177	7,455	22,511	-590	23,856	11,682
Net operating profit	43,405	54,573	45,157	55,529	100,059	59,745
Depreciation						
Machinery and equipment	-7,899	-7,301	-7,451	-20,651	-7,911	-10,243
Titled vehicles	-	-	-	10,675	-2,000	1,735
Buildings and improvements	-4,838	-2,242	-5,190	-4,930	-	-3,440
Total depreciation	-12,737	-9,543	-12,641	-14,906	-9,911	-11,948
Net farm income from operations	30,668	45,030	32,516	40,623	90,148	47,797
Net farm income	30,668	45,030	32,516	40,623	90,148	47,797



Farm Debt and Chapter 12 Bankruptcy Eligibility

March 15, 2019

As [farm income has declined](#) over multiple years since 2013, the number of reported farm bankruptcies has begun to increase. The [Federal Reserve Bank of Minneapolis](#) observed that Chapter 12 farm bankruptcies increased in 2018 across the Midwest and appear to be higher among dairy farms. The [American Farm Bureau Federation](#) has compiled farm bankruptcy data from the [U.S. Courts](#) at the national level. According to this data, in 2018, 498 U.S. farms filed for Chapter 12 bankruptcy, nearly constant with 501 farm bankruptcies in 2017 (a rate of about 2.5 per 10,000 farms). The continuing steady number of farm bankruptcies at the national level masks an increase in filings across 19 states, particularly in the upper Midwest where a 19% rise in annual Chapter 12 filings has occurred since 2017. [Wisconsin had 47 Chapter 12 bankruptcies](#) in 2018, one-third more than the next highest state (Nebraska) and 18% above the number in Wisconsin in 2016.

Chapter 12 of the Bankruptcy Code is reserved for family farmers and family fishermen (11 U.S.C. 1201-1232). It allows financially distressed farmers and fishermen to restructure their debt and remain in operation. Chapter 12 was designed to be less complicated, less expensive, and more appropriate for farmers than other types of bankruptcy, such as Chapter 11, which is better suited to large corporations, or Chapter 13, which is designed for wage earners who typically have smaller debts. To qualify for Chapter 12, family farmers must meet [several eligibility requirements](#) (11 U.S.C. 101(18)), including that their total debt is less than \$4.153 million (as adjusted for inflation every three years; 11 U.S.C. 104), that at least half of the debt is farm business debt, and that at least half of their gross income is from farming.

A policy concern has arisen over whether the \$4.153 million Chapter 12 debt limit should be raised to allow larger farms to qualify for this bankruptcy option in light of recent family farm financial stress, the rise in the number of bankruptcies, and the growth in the average size of farms.

While the U.S. Department of Agriculture (USDA) has published some tables that summarize [how farms use debt](#), those data do not measure combinations of debt at the \$4 million Chapter 12 threshold nor include non-farm debt. Additional data obtained from the USDA Economic Research Service allow for the following observations about total household debt per family farm:

Congressional Research Service

<https://crsreports.congress.gov>

IN11073

- Of the approximately 2 million family farms in the United States, nearly two-thirds have no farm business debt, and about one-third have no household debt (farm or non-farm debt). Hereinafter, this analysis includes both farm and nonfarm debt unless otherwise specified.
- More specifically, of 1,996,000 family farms,
 - 592,000 (29.6%) have no debt,
 - 1.32 million (66.3%) have between \$1 and \$1 million of debt. Farms in this debt range hold 41% of total farm debt.
 - 76,000 (3.8%) have between \$1 million and \$4.153 million of debt. Farms in this range hold 42% of total farm debt.
 - 7,700 (0.4%) have debt greater than the \$4.153 million, which is above the initial threshold for Chapter 12 bankruptcy. Farms in this debt range hold 17% of total farm debt and account for about 12% of the value of production.

In terms of eligibility for Chapter 12, only a fraction of the farms above would meet the filing requirements that farm debt be at least half of total debt and that farm income be at least half of gross income.

- About 269,000 of the 1.4 million farms above (19%) with total debt between \$1 and \$4.153 million have ratios of farm-to-nonfarm debt and farm-to-nonfarm income that would allow them to qualify to file under Chapter 12. That only one-fifth of these farms meet the current eligibility standards for Chapter 12 likely highlights the prevalence of non-farm income for many smaller farms in this category.
- To illustrate the hypothetical effect of a higher Chapter 12 debt limit, if the debt limit were raised to \$10 million per farm, about an additional 5,000 farms nationwide would become eligible for Chapter 12, based on their total debt and their ratios of farm-to-nonfarm debt and income. Not all of these farms are financially vulnerable, however. About another 800 farms have greater than \$10 million of debt and meet the farm-to-nonfarm ratios.

Information is not available to further subdivide these farms by type of enterprise (e.g., crop or livestock) or by location, and still measure the farm and nonfarm components of debt and income.

A question that might arise if the debt limit for Chapter 12 were to be increased: which agricultural lenders would be exposed to additional farms qualifying for this type of bankruptcy? Based on the underlying shares of farm debt held by the various lenders, commercial banks and the Farm Credit System hold about 83% of the farm debt, nearly equally divided. About 6% of that debt is guaranteed for repayment by the Farm Service Agency (FSA) in the case of a default. Loans directly issued by FSA are only about 3% of the total farm debt. Moreover, statutory lending limits on FSA loans (\$400,000 per borrower for direct operating loans, \$600,000 per borrower for direct farm ownership loans, and \$1.75 million per borrower for guaranteed loans) would likely limit FSA exposure to a change that would allow farms with more than \$4 million of debt to be eligible to file for bankruptcy under Chapter 12. In the 2018 farm bill, Congress raised these FSA loan limits by about one-quarter to one-third, or double in the case of direct farm ownership loans, in recognition of growing financial stress and the increasing size of family farms.

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